

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PEOPLES BANK,

Plaintiff,

v.

YCT. DAME DE LA MER, Official  
Number 1256959 *in rem*; and ESTATE OF  
MICHAEL COHEN, *in personam*,

Defendants.

CASE NO. 3:21-cv-05882-RJB

ORDER ON PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT

This matter comes before the Court on Plaintiff's Motion for Summary Judgment. Dkt. 32. The Court has considered the pleadings filed by both parties and supporting declarations. It is fully informed. The parties are largely in agreement, and Plaintiff's motion for summary judgment should accordingly be granted, in part.

The following facts are not disputed. On October 2, 2014, Michael Cohen executed a promissory note to Peoples Bank for \$470,000.00 to purchase the M/Y DAME DE LA MER, Official Number 567048. Dkts. 32 and 57. The promissory note was scheduled to mature on October 16, 2034. Dkt. 57. To secure repayment on the promissory note, Michael Cohen

1 executed and delivered to Peoples Bank a Preferred Mortgage of Vessel upon the M/Y DAME  
2 DE LA MER in favor of Peoples Bank dated October 2, 2014. Dkt 32.

3 Michael Cohen, who is now deceased, secured at least two loans for two different yachts  
4 from Peoples Bank during his lifetime. Dkts. 32 and 57. On July 19, 2018, he sold a different  
5 yacht and paid off the loan secured by that vessel. *Id.* Due to what appears to have been a  
6 clerical error, an employee at Peoples Bank marked the promissory note for DAME DE LA  
7 MER as paid rather than the note secured by the other yacht. *Id.* Nonetheless, automatic  
8 payments continued to be made toward the DAME DE LA MER promissory note, for which  
9 there was still an outstanding balance, from a JP Morgan Chase Bank account to Peoples Bank.  
10 *Id.* The last payment was made on November 16, 2020, and Michael Cohen died on December  
11 6, 2020. *Id.*

12 Michel Cohen's son, Loren Cohen, was originally appointed Personal Representative of  
13 the Estate of Michael Cohen. *Id.* He was later removed from that role and replaced by Carol  
14 Vaughn. *Id.* After some delay, the Estate of Michael Cohen arranged for, and the parties agreed  
15 to, a private sale of the DAME DE LA MER for the gross amount of \$425,000.00. Dkt. 57. The  
16 proceeds from the sale minus the broker's commission amounts to \$386,700.00 and has been  
17 deposited in the Court's registry. Dkt. 54.

18 In the pending motion for summary judgment, the parties agree that the vessel loan is in  
19 default and that Peoples Bank is entitled to foreclosure of the mortgage and remedies provided  
20 for by the Promissory Note. Dkt. 32 at 7; Dkt. 57. They agree that Peoples Bank is therefore  
21 entitled to recover the principal amount due under the loan, \$265,044.06, plus interest and a \$900  
22 late fee. *Id.* While Peoples Bank initially moved for entry of judgment on the amount of  
23 attorney fees and legal expenses, including custodial fees, the parties now agree that summary  
24

1 judgment on that amount is not yet proper. Dkts. 32, 57, 60. Both parties express their desire to  
2 reach an agreement on that number. *Id.*

3 Therefore, Peoples Bank motion for summary judgment should be granted EXCEPT as to  
4 the amount of attorney's fees and legal expenses and *custodia legis* expenses and costs, as  
5 provided for under the Promissory Note. The parties must inform the court whether they have  
6 reached an agreement on that amount by **September 23, 2022**. If the parties reach agreement by  
7 that date, they should further provide the Court with final paperwork regarding entry of judgment  
8 and a motion for dispersal of funds out of the Registry of the Court, as required by Western  
9 District of Washington Local Civil Rule 67(b).

10 **I. ORDER**

- 11 • Peoples Bank's Motion for Summary Judgment (Dkt. 32) IS GRANTED in part,  
12 as described above;
- 13 • The Parties are ordered to inform the court of the status of their agreement by  
14 September 23, 2022.

15 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
16 to any party appearing pro se at said party's last known address.

17 Dated this 8<sup>th</sup> day of September, 2022.

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19 ROBERT J. BRYAN  
20 United States District Judge  
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